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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91180059
Party	Defendant VIVIDAS TECHNOLOGIES PTY LIMITED
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Submission	Answer
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Date	11/26/2007
Attachments	viv031.pdf (6 pages)(142787 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

bioMerieux, Inc.)	Serial No. 78/325,031
)	
vs.)	Opposition No. 91180059
)	
Vividas Technologies Pty Limited)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Vividas Technologies Pty Limited (“VTPL”), formed according to the laws of Australia and having its principal place of business at 59 Wellington Street, St. Kilda, Victoria 3182, for its Answer to the Notice of Opposition, states:

ANSWER TO PREAMBLE

VTPL DENIES that Opposer will be damaged by registration of the trademark VIVIDAS, as shown in Serial No. 78/325,031 (the “’031 Application”), in any or all of the classes of goods/services identified in the ‘031 Application.

ANSWER TO ALLEGATIONS

1. VTPL DENIES knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Notice of Opposition.

2. VTPL DENIES knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Notice of Opposition.

3. VTPL DENIES knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Notice of Opposition.

4. VTPL DENIES knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Notice of Opposition.

5. VTPL ADMITS the allegations in paragraph 5 of the Notice of Opposition.

6. VTPL ADMITS that it filed the '031 Application on November 7, 2003 for the mark VIVIDAS, but DENIES that the listing of goods identified in paragraph 6 is accurate because the listing of goods in paragraph 6 does not accurately reflect the listing that was included in the registration application as filed on November 7, 2003.

7. VTPL DENIES knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Notice of Opposition.

8. VTPL ADMITS the allegations in paragraph 8 of the Notice of Opposition.

9. VTPL DENIES knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Notice of Opposition.

10. VTPL DENIES the allegations in paragraph 10 of the Notice of Opposition.

11. VTPL DENIES the allegations in paragraph 11 of the Notice of Opposition.

12. VTPL DENIES the allegations in paragraph 12 of the Notice of Opposition.

13. VTPL DENIES the allegations in paragraph 13 of the Notice of Opposition.

DEFENSES

FIRST DEFENSE

14. The goods/services identified in the '031 Application are not confusingly similar to the goods identified in U.S. Registration No. 1,785,252, and therefore there is no likelihood of confusion..

SECOND DEFENSE

15. The mark "VIVIDAS" is not similar in appearance, pronunciation or meaning to "VIDAS" and does not create the same or similar visual or audible impression, and therefore there is no likelihood of confusion.

THIRD DEFENSE

16. The consumers for the goods identified in U.S. Registration No. 1,785,252 are likely to be different from the consumers for the goods/services identified in the '031 Application, and therefore there is no likelihood of confusion.

FOURTH DEFENSE

17. The channels of trade for the goods identified in U.S. Registration No. 1,785,252 are likely to be different from the channels of trade for the goods/services identified in the '031 Application, and therefore there is no likelihood of confusion.


FIFTH DEFENSE

18. The sophistication of the consumers for the goods identified in U.S. Registration No. 1,785,252 is likely to be very high, and the sophistication of the consumers for the goods/services identified in the '031 Application is likely to be high, and therefore the consumers will likely determine a difference between the marks, and so there is no likelihood of confusion.

WHEREFORE, VTPL requests that the Opposition be dismissed and that Application Serial No. 78/325,031 be approved and that the mark VIVIDAS be registered.

Dated: Buffalo, New York
November 26, 2007

Hodgson Russ LLP
Attorneys for Applicant, Vividas Technologies Pty Ltd.

By: 
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the *Answer to Notice of Opposition* was served on November 26, 2007 by First Class Mail in an envelope addressed to:

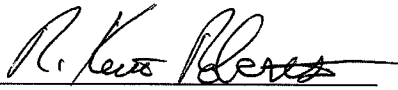
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A handwritten signature in black ink, appearing to read "R. Kent Roberts", is written over a horizontal line.

R. Kent Roberts, Attorney for VTPL

CERTIFICATE OF FILING

I hereby Certify that this the *Answer to Notice of Opposition* is being electronically filed with the United States Patent And Trademark Office on November 26, 2007.


R. Kent Roberts